

Protection Order Committee
Judicial Conference of Indiana

Minutes
January 25, 2019

The Protection Order Committee met at the Indiana Office of Court Services on Friday, January 25, 2019 from 12:00 noon – 3:15 p.m.

1. Members present. Andrew K. Antrim, Marshelle D. Broadwell, David L. Chidester, Jennifer Lynne DeGroot, Sara A. Dungan, Danielle P. Gaughan, Justin Hunter and Sean M. Persin, Chair.
2. Staff present. Jeffrey Bercovitz, Tom Jones, and Lisa Manning provided the committee with staff assistance.
3. Minutes approved. The minutes for the meeting on October 26, 2018 were approved.
4. New member. Judge Persin, Chair introduced Danielle P. Gaughan as a new member of the committee.
5. Expungement – SB 235. Committee members discussed Senate Bill 235 which provides for the expungement of protection orders. Committee members discussed:
 - a. The combination of an expungement petition which would cover multiple protection order cases.
 - b. Courts should not provide service of petitions for expungement or redact portions of the expungement petition.
 - c. A standard of proof which should be indicated in the statute. J. Chidester distributed language from Ohio which uses which uses clear and convincing evidence. The committee also discussed criteria in which a court must grant the expungement.
 - d. Whether there should be a waiting period for a person to seek to expungement. The waiting period discussed was to be not earlier than 90 days after the entry of judgment or the time period to file all appeals was exhausted.
 - e. Requirement to disclose all other cases between the parties. Judge Persin agreed to draft a letter to Judge Freese, for review by him, and whether to pass any or all of letter to the authors of SB 235.
6. Spring Judicial College session.
 - a. Judge Persin reviewed the Spring Judicial College session with committee members, including discussion of Brady laws, demonstrating E-filing of protection orders and discussion of E-filing of protection orders.
 - b. Members of the committee discussed their court procedures in place when a protection order is filed and potential changes in their procedures and Odyssey when E-filing of protection orders begins.
7. Recent legislation.
 - a. Lisa Manning reviewed Senate Bills 16, 269, 551 and House Bills 1049, 1415, and 1607 with committee members.

- b. Members of the committee discussed SB 551, which if passed, would provide a parent, guardian or another representative could file a petition for a protection order on behalf of a child against a person who engages in conduct which would cause a reasonable person to believe the health, welfare, or safety of the child is at risk. Numerous forms would have to change to accommodate this legislation.
8. Up to nine (9) protected parties in each protection order. Judge Antrim reviewed proposed language to warn persons only 9 persons filing a protection order would be protected in the order at one time. Instructions, PO-102, and Chapter 3, page 3 were amended with this new language which was approved. Committee members also placed the same language in Chapter 2, page 2 and agreed to look at this language at their next meeting.
9. PO-0122 amendment. Magistrate Broadwell and Judge DeGroote reviewed removal of unnecessary language in PO-0122, Order on Transfer to Court Having Jurisdiction of the Parties. Committee members agreed by consensus to remove the unneeded language.
10. Next meeting.
- a. At their next meeting, committee members agreed to:
- (1) Continue discussion of expungement of protection orders;
 - (2) Discuss E-filing of protection orders and agreed to revise forms for use with E-filing of protection orders and various questions (e.g. when the respondent can see the filing, changes needed when E-filing the child protection order, and other rule or procedural changes);
 - (3) Discuss the Spring 2019 judicial college session on protection orders;
 - (4) Review a proposed order for judgments in the PO Deskbook (J. Harvey); and
 - (5) Discuss legislation and other issues.
- b. Members of the committee agreed to meet again on February 22, 2019, March 22, 2019, June 28, 2019, August 23, 2019 and October 25, 2019 from 12:00 Noon – 3:30 p.m. at the offices of the Indiana Office of Court Services.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law

Protection Order Committee
Judicial Conference of Indiana

Minutes

February 22, 2019

The Protection Order Committee met at the Indiana Office of Court Services on Friday, February 22, 2019 from 12:00 noon – 3:30 p.m.

1. Members present. Andrew K. Antrim, David L. Chidester, William A. Dawkins Jr., Jennifer Lynne DeGroote, Sara A. Dungan, Danielle P. Gaughan, Mary Margaret Lloyd and Sean M. Persin, Chair.
2. Staff present. Jeffrey Bercovitz, LaJuan Epperson, Tom Jones, and Lisa Manning provided the committee with staff assistance.
3. Minutes approved. The minutes for the meeting on January 25, 2019 were approved.
4. Expungement – SB 235. Committee members discussed Senate Bill 235 which provides for the expungement of certain protection orders. Committee members discussed:
 - a. The history of expungement of protection orders, including **Cook v. Cook**, 935 N.E.2d 622 (Ind. Ct. App. 2013) and previous versions of proposed legislation which permitted expungement of certain protection orders.
 - b. Committee members reviewed Senate Bill 235. They discussed the use of a separate case number for an expungement case, tracking the number of petitions filed, weighted caseload, service of expungement petitions by courts and a filing fee and “sealing” the order.
 - c. Magistrate Dawkins moved to send a favorable response to suggestions from Judge Carmichael about potential changes to the pending SB 235. Judge Antrim seconded the motion. The motion was passed.
 - d. Judge Chidester agreed to prepare a form order for use by courts to grant or deny expungement petitions.
5. 7. Recent legislation.
 - a. Lisa Manning reviewed Senate Bills 16 and 551 and House Bill 1607 with committee members.
 - b. Committee members discussed SB 1607, which permits a victim of “harassment” under Ind. Code § 35-45-2-2 to file a petition for a protection order. Committee members indicated more potential violations of protection orders in these cases since harassment is broadly defined, which may impact prosecutor’s willingness to file criminal invasion of privacy charges. They also discussed the potential increase in protection order case filings. Lisa Manning reported the bill was amended to send the bullying portion to an interim study committee. Lisa Manning and Jeff Bercovitz agreed to talk with Justin Forkner about this legislation.
 - c. Members of the committee discussed SB 551, which if passed, provides a parent, guardian or another representative could file a petition for a protection order to protect a

child from child sex grooming. Judge Antrim agreed to review the Instructions for Filing a Petition on Behalf of a Child, the Petition for a Protection Order on Behalf of a Child, an Ex Parte Protection Order and a Protection Order issued after a Hearing. He agreed to recommend revisions to these forms.

d. Lisa Manning reported SB 16 was sent to an interim study committee.

6. Other.

a. LaJuan Epperson reported the pilot for E-filing of protection orders may begin in April 2019 in three (3) counties, in order to discuss preliminary results at the Spring Judicial Conference in May 2019. Trial Rule changes are ready to be introduced for E-filing.

b. Committee members agreed to discuss a recent case from a local court about a Brady disqualification when a protection order was entered against the adult child of the petitioner.

7. Next meeting.

a. At their next meeting, committee members agreed to:

(1) Review a protection order expungement order which works with SB 235;

(2) Draft forms to permit a parent, custodian or another representative of a victim of sex grooming to petition a court for a protection order to protect a child from child sex grooming.

(3) Discuss E-filing of protection orders;

(4) Discuss the Spring 2019 judicial college session on protection orders; and

(5) Discuss other issues.

b. Members of the committee agreed to meet again on March 22, 2019, June 28, 2019, August 23, 2019 and October 25, 2019 from 12:00 Noon – 3:30 p.m. at the offices of the Indiana Office of Court Services.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law

Protection Order Committee
Judicial Conference of Indiana

Minutes
March 22, 2019

The Protection Order Committee met at the Indiana Office of Court Services on Friday, March 22, 2019 from 12:00 noon – 3:30 p.m.

1. Members present. Andrew K. Antrim, Sara Arnold, David L. Chidester, Jennifer Lynne DeGroot, Sara A. Dungan, Danielle P. Gaughan, Holly M. Harvey, Mary Margaret Lloyd and Sean M. Persin, Chair.
2. Staff present. Jeffrey Bercovitz, LaJuan Epperson, Tom Jones, and Lisa Manning provided the committee with staff assistance.
3. Minutes approved. The minutes for the meeting on February 22, 2019 were approved.
4. New member. Judge Persin introduced a new member to the committee, Clerk Sara Arnold, Spencer County.
5. Protection Order petition. Members of the committee reviewed the Petition for a Protection Order, noting the E-filing program only allows the petitioner to pick one item for relationship. Committee members added language to clarify the petitioner should choose family or household member relationship or, if no family or household relationship exists, choose stalking or a sex offense as a relationship.
6. Expungement – SB 235.
 - a. Committee members reviewed Senate Bill 235, which provides for the expungement of certain protection orders. They committee discussed whether orders to expunge protection orders should have their own case type.
 - b. Members of the committee reviewed a draft form expungement order and suggested changes to Judge Chidester. They agreed to have a separate order if the expungement if the expungement order is denied. Committee members agreed to continue this discussion of these new forms at their next meeting.
7. Protection Orders to prevent child sex grooming.
 - a. Members of the committee reviewed Senate Bill 551, which would permit a protection order to protect a child from sex grooming.
 - b. Judge Antrim reviewed proposed language for PO-0101, PO-0103, PO-0105, PO-0113 and PO-0115. Committee members agreed to continue review of this language at the next meeting of the committee.
8. Recent legislation. Lisa Manning reviewed Senate Bill 551, with provisions for use of the title Victim 1, Victim 2... rather than names for victims of crimes and its effect on no contact orders. She also discussed House Bill 1607, which permits a victim of

“harassment” under Ind. Code § 35-45-10-2, to file a petition and get a protection order. She noted the legislation has procedures similar to Workplace Violence Restraining Orders.

9. Next meeting.

a. At their next meeting, committee members agreed to:

- (1) Review the draft expungement order under SB 235;
- (2) Review draft forms to permit a parent, custodian or another representative of a victim of sex grooming to petition a court for a protection order to protect a child from child sex grooming under SB 551.
- (3) Discuss harassment protection orders under HB 1607;
- (4) Discuss E-filing of protection orders; and
- (5) Discuss other issues.

b. Members of the committee agreed to meet again on:

- Friday, May 31, 2019 from 12:00 – 3:30 p.m. if the legislation above passes and new forms and/or procedures are needed as determined by the chair.
- Friday, June 28, 2019, from 12:00 – 3:30 p.m. and begin at 10:30 a.m. if needed, as determined by the chair;
- Friday, August 23, 2019, October 25, 2019, January 31, 2020 and February 28, 2020 from 12:00 Noon – 3:30 p.m. at the offices of the Indiana Office of Court Services.
- The committee also discussed starting a comprehensive revision of the Protection Order Deskbook to include a chapter on E-filing and updates on recent statutory revisions.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law

Protection Order Committee
Judicial Conference of Indiana

Minutes
May 31, 2019

The Protection Order Committee met at the Indiana Office of Court Services on Friday, May 31, 2019 from 12:00 noon – 3:40 p.m.

1. Members present. Andrew K. Antrim, Marshelle D. Broadwell, Alexis Vazquez Dedelow, Sara A. Dungan, Danielle P. Gaughan, Mary Margaret Lloyd and David L. Chidester, Chair pro tem.
2. Staff present. Jeffrey Bercovitz, LaJuan Epperson, and Tom Jones provided the committee with staff assistance.
3. Minutes approved. The minutes for the meeting on March 22, 2019 were approved.
4. Expungement of protection orders – SEA 235.
 - a. Committee members reviewed and revised a draft form expungement order and a form notice and order setting a hearing, each prepared by Judge Chidester. Judge Antrim moved to approve the expungement order and the notice and order setting a hearing as revised. Magistrate Dedelow seconded the order. The motion was passed.
 - b. Members of the committee agreed to have a separate order denying an order of expungement. Committee members agreed to distribute this form in advance to review before their next meeting.
5. Protection Orders to prevent child sex grooming – SEA 551.
 - a. Committee members reviewed language for PO-0101, PO-0103, PO-0105, PO-0113 and PO-0115 to prevent sex grooming prepared by Judge Antrim. Committee members agreed by consensus to approve the use of this new language.
 - b. LaJuan Epperson asked the committee for a term to be used to show the relationship in the registry for these new orders, 50 characters or less. Committee members agreed the term “sex grooming” should be used.
6. Harassment protection orders – SEA 1607.

Members of the committee discussed the development of new protection orders to prohibit harassment of petitioners under Senate Enrolled Act 1607. Committee members discussed a memorandum from Judge Persin, petitioners already filing out multiple petitions, Clerk distribution of multiple forms in a packet when asked, and forum shopping with harassment forms. They agreed 5-2 to revise existing forms to support this new statute.
7. Next meetings

Members of the committee agreed to meet again on:

- Friday, June 28, 2019, from 12:00 – 3:30 p.m. and begin at 10:30 a.m. if needed, as determined by the chair;
- Friday, August 23, 2019, October 25, 2019, January 31, 2020 and February 28, 2020 from 12:00 Noon – 3:30 p.m. at the offices of the Indiana Office of Court Services.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law

Protection Order Committee
Judicial Conference of Indiana

Minutes
June 28, 2019

The Protection Order Committee met at the Indiana Office of Court Services on Friday, June 28, 2019 from 12:00 noon – 3:40 p.m.

1. Members present. Andrew K. Antrim, Sara Arnold, David Chidester, Alexis Vazquez Dedelow, Jennifer Lynne DeGroot, Sara A. Dungan, Danielle P. Gaughan, Mary Margaret Lloyd and Sean M. Persin, Chair.
2. Staff present. Jeffrey Bercovitz, Tom Jones, Lisa Manning provided the committee with staff assistance from the Indiana Office of Court Services; Carl Cowan provided staff assistance from Trial Court Technology.
3. Minutes approved. The minutes for the meeting on May 31, 2019 were approved.
4. Retiring members.
 - a. Judge Persin thanked retiring committee members Judge David L. Chidester, Judge Jennifer Lynne DeGroot, and Judge Justin Hunter for their contributions and work on the committee.
 - b. Judge Persin thanked Jeff Bercovitz for his work as staff attorney and welcomed Lisa Manning as new staff attorney for the committee.
5. Harassment protection orders – SEA 1607. Committee members reviewed, revised and approved forms PO-0100, PO-0101, PO-0102, PO-0103, PO-0105, PO-0110, PO-0113, PO-0115, and PO-0122, for new language, which added protection against repeated acts of harassment, prepared by Judge Persin. The forms were approved by consensus.
6. Expungement of protection orders – SEA 235. Members of the committee reviewed and revised expungement order forms PO-0134 and PO-0135. The committee reviewed and revised, PO-0136, a denial of expungement of a protection order. The forms were approved by consensus.
7. Other.
 - a. Committee members approved a new form, NCO-0109 for use by prosecutors to comply with Administrative Rule 9, which requires notice of confidential information.
 - b. Members of the committee approved revisions to PO-0104, the Confidential Form, to remove obsolete language.
 - c. Committee members agreed to look at Judge Chidester’s suggested form Notice to Appear in Harassment cases at the next meeting of the committee.
 - d. Members of the committee reviewed a memorandum to all judges, which explains the use of new and revised protection order forms, to be distributed to courts and clerks.
 - e. Committee members agreed to review any last minute edits to forms as needed.

8. Future meetings. Members of the committee agreed to meet again on Friday, August 23, 2019, October 25, 2019, January 31, 2020 and February 27-28, 2020 from 12:00 Noon – 3:30 p.m. at the offices of the Indiana Office of Court Services.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law

Protection Order Committee
Judicial Conference of Indiana

Minutes

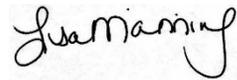
October 25, 2019

The Protection Order Committee met at the Indiana Office of Court Services on Friday, October 25, 2019 from 12:00 noon – 3:30 p.m.

1. Members present. Andrew Antrim, Judith Benckart, Marshelle Broadwell, William Dawkins, Alexis Vazquez Dedelow, Michael Douglass, Sara Dungan, Danielle Gaughan, Holly Harvey, Darren Murphy, and Sean Persin, Chair.
2. Staff present. Lisa Manning, Tom Jones, and LaJuan Epperson.
3. Minutes approved. The minutes for the meeting on June 28, 2019 were approved.
4. Introductions. The committee welcomed new members Judith Benckart, Michael Douglass, and Darren Murphy.
5. Form Revisions.
 - a. PO-0100 and PO-0101: Committee members reviewed, revised and approved changes to forms PO-0100 and PO-0101 by consensus. A proposed change to the language on page 8 of PO-0101 was tabled until January to allow for more consideration. Lisa will check with Ruth R. and Jeff B. for historical context.
 - b. CHPO-0102: The committee approved removing the certificate of service language. LaJuan proposed a rule change to mandate court/clerk service of all protection order motions. This proposal was tabled until January.
 - c. Order to appear for harassment protection orders: The committee considered a request to create an order to appear for new harassment protection orders. The committee denied the request by consensus and recommends use of PO-0106 to set hearings.
 - d. Brady hearing: Committee members reviewed proposed changes to the protection order forms to include the scheduling of a Brady hearing. The committee denied the request to modify the forms by consensus. LaJuan will follow up by phone with the author of the questions to brainstorm solutions within Incite.
6. Update on E-filed Protection Orders. LaJuan gave a detailed update on the electronically filed protection orders. LaJuan presented two recurring challenges: how to handle certificates of service in subsequent filings, and issuing orders and scheduling hearings when the Petitioner is not present at the time of filing. Committee will discuss service of subsequent filings at January meeting.
7. Harassment Protection Orders. Committee members discussed the effect of the new law allowing for protection orders based on harassment. The committee will consider changes to the forms at the January meeting.

8. Desk book Rewrite. The committee agreed to complete a full rewrite of the desk book. Committee members will choose a chapter and prepare revisions for the February two-day meeting.
9. Falls v. State. The committee discussed Falls v. State, which was circulated. The committee will consider reference to Falls during desk book rewrite.
10. Future meetings. Members of the committee agreed to meet again on Friday, January 31, 2020, February 27-28, 2020, and March 27, 2020 from 12:00 Noon – 3:30 p.m. at the offices of the Indiana Office of Court Services.

Respectfully submitted,

A handwritten signature in cursive script that reads "Lisa Manning". The signature is written in black ink on a light-colored background.

Lisa Manning
Family Violence Resource Attorney